



OVERVIEW OF LAWS AND REGULATIONS

National Flood Insurance Act

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Executive Summary:

The National Flood Insurance Act of 1968, as amended, (Act) requires the federal banking agencies to adopt regulations relating to flood insurance. The National Flood Insurance Reform Act of 1994 revised many provisions of the Act in order to increase compliance with the flood insurance requirements and to increase participation in the National Flood Insurance Program (NFIP).

The Act and OTS implementing regulations (12 CFR Part 572) require flood insurance for the term of the loan on buildings or mobile homes when: (1) the institution makes, increases, extends, or renews any loan secured by a building or a mobile home and any personal property; (2) the property securing the loan is or will be located in a Standard Flood Hazard Area (SFHA); and, (3) the community participates in the NFIP.

The mandatory purchase requirements apply to refinancing of an existing loan and to home equity loans. The mandatory purchase requirements do not apply to loans on state-owned property covered under an adequate policy of self-insurance satisfactory to the Director or FEMA, or to loans with an original principal balance of \$5,000 or less and having an original repayment term of one year or less.

The amount of flood insurance required must be at least equal to the outstanding principal balance of the loan, or the maximum amount available under the NFIP, whichever is less. Flood insurance coverage is limited to the overall value of the property securing the loan minus the value of the land on which the property is located. Flood insurance is required for any personal property securing a loan that is also secured by real property located in a SFHA, but is not required for personal property if it does not secure the loan.

The Act and regulations require an institution to: (1) provide a written notice to the borrower and servicer; (2) identify the servicer of the loan; (3) use a standard flood hazard determination form; (4) escrow flood insurance premiums in certain circumstances; and (5) "force-place" insurance for the borrower when necessary.

Business Areas Impacted:

- Residential and Commercial Lending Units
- Credit Application Processing
- Credit Operations
- Asset Quality Management
- Risk Management
- Internal Controls Management

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Highlights

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Policy/Procedures</p> <p>Adopt a policy for implementing the Act and OTS regulations. Maintain written procedures to ensure compliance with laws and regulations.</p>	Continuing	<p>Policy Statement</p> <p>Written Procedures</p>
<p>Flood Zone Determinations</p> <p>If a loan is secured by a building or a mobile home, determine whether the secured property is or will be located in a special flood hazard area (SFHA).</p> <p>If the property is located in a SFHA, determine if the community in which the property is located participates in the National Flood Insurance Program (NFIP).</p> <p>Ensure that flood zone determinations are accurately prepared on the Standard Flood Hazard Determination Form (SFHDF).</p> <p>A copy of the completed form must be retained. An institution may rely on a previous determination only if the original determination was recorded on the SFHDF within the previous 7 years and there were no map revisions or updates affecting the property since the original determination was made.</p>	<p>Determine prior to making, increasing, extending or renewing any loan</p> <p>Retain SFHDF for as long as the institution owns the loan</p>	<p>Policy Statement</p> <p>Appraisal Reports</p> <p>FEMA Flood Maps</p> <p>Underwriting Guidelines</p> <p>FEMA Purchase Guidelines</p> <p>Standard Flood Hazard Determination Form</p> <p>SFHDF</p>
<p>Purchase Requirements</p> <p>Ensure that sufficient flood insurance is purchased on a loan secured by a building or mobile home that is or will be located in a SFHA in a community participating in the NFIP.</p> <p>Maintain sufficient insurance coverage for the life of the loan.</p> <p>The amount of insurance coverage must be at least equal to the outstanding principal balance of the</p>	<p>Prior to loan closing</p> <p>Continuing</p> <p>Prior to loan closing; continuing</p>	<p>Underwriting Guidelines</p> <p>Underwriting Guidelines</p> <p>Loan Documents</p>



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<p>equal to the outstanding principal balance of the loan or the maximum limit of coverage available through the NFIP, whichever is less.</p>		
<p>Notice to Borrower and Servicer</p> <p>If the property securing the loan is or will be located in a SFHA, provide a written notice to the borrower and the servicer that contains the following information:</p> <ol style="list-style-type: none"> 1. A warning that the building or mobile home is or will be located in a SFHA; 2. A description of the flood insurance purchase requirements; 3. A statement indicating whether flood insurance coverage is available under the NFIP and may also be available from private insurers; and 4. A statement indicating whether Federal disaster relief assistance may be available in the event of damage to the building or mobile home, caused by flooding in a Federally declared disaster. <p>The notice must be provided regardless of whether the property is located in a participating or non-participating community. In a transaction involving multiple borrowers, the notice can be provided to any one of the borrowers, but an institution may provide multiple notices if it chooses. Appendix A to the OTS implementing regulations contains a sample notice.</p> <p>An institution may rely on assurances from a seller or lessor that the seller or lessor has provided the requisite notice to the purchaser or lessee.</p>	<p>Within a reasonable time before completion of the transaction (borrower); as promptly as practicable after notice to the borrower (servicer)</p> <p>Reasonable time is not defined, but a borrower should receive a timely notice to ensure that the borrower has the opportunity to become aware of his or her responsibilities under the NFIP and can purchase flood insurance before completion of the loan transaction.</p>	<p>Copy of Notice</p>
<p>Escrowing Flood Insurance Premiums</p> <p>If the institution escrows for charges in connection</p>	<p>Loans made, in-</p>	<p>Underwriting Guidelines</p>



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<p>with a loan secured by <i>residential</i> improved real estate or a mobile home, ensure that it also escrows for all premiums and fees for any required flood insurance.</p> <p>The escrow requirement applies to all loans secured by residential improved real estate. In addition, however, the escrow account itself must comply with the requirements of Section 10 of RESPA if it is established for a federally related mortgage loan, which is, generally, a loan on one- to-four-family dwellings.</p> <p>If an institution makes a loan on the purchase of a condominium over which a Residential Condominium Building Association Policy is in place and the premiums are paid by dues to the condominium association, the escrow requirement is satisfied.</p> <p>If escrow accounts for other purposes are established at the voluntary request of the borrower, the institution is not required to establish escrow accounts for flood insurance premiums.</p>	<p>created, extended or renewed after 10/1/96; continuing</p>	
<p>Forced Placement of Flood Insurance</p> <p>An institution <i>must</i> purchase, or force place flood insurance if at any time during the life of the loan it determines that:</p> <ol style="list-style-type: none">1. The property securing the loan is located in a SFHA;2. The community in which the property is located participates in the NFIP;3. Flood insurance coverage is inadequate or does not exist; and4. The borrower fails to purchase flood insurance in the appropriate amount within 45 days after notification.	<p>Life of loan; continuing</p>	<p>Underwriting Guidelines</p> <p>FEMA's Flood Maps</p>



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<p>Purchase flood insurance in an amount equal to the difference between the present amount of coverage and the lesser of the outstanding principal balance or the maximum coverage limit available under NFIP.</p> <p>An institution is responsible for ensuring that when flood insurance is required at loan origination, the borrower renews the flood insurance policy for as long as flood insurance is required. If a borrower allows a policy to lapse, the institution or its servicer is required to commence force placement procedures.</p> <p>OTS regulations do not require an institution to monitor flood maps or make flood hazard determinations at any time other than when making, increasing, extending or renewing a loan. Nonetheless, institutions that are significantly exposed to flood insurance risks should include provisions in their policies and procedures relating to periodic reviews of flood insurance coverage or reviews of flood remappings.</p>	<p>Life of loan; continuing</p>	<p>Underwriting Guidelines FEMA Flood Maps</p>
<p>Fees and Charges</p> <p>An institution may charge the borrower a reasonable fee for the costs associated with determining whether a building or mobile home is or will be located in a SFHA. If a loan is sold or transferred, the fee may be charged to the purchaser or transferee.</p> <p>Ensure that the fee is only charged when:</p> <ol style="list-style-type: none"> 1. The borrower initiates the making, increasing, extending, or renewing of a loan; 2. FEMA revises or updates floodplain areas or risk zones; 3. FEMA publishes a notice that affects the area in which the loan is located or may reasonably require a flood hazard determination; or 4. The determination results in the purchase of 	<p>Continuing</p>	<p>Loan Documents Underwriting Guidelines</p>



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<p>flood insurance under the forced placement provision.</p> <p>Examples of determination fees may include a reasonable fee for the costs of an initial flood hazard determination, for monitoring the flood hazard status of property during the life of the loan to make determinations on an ongoing basis, and for remappings (even if the property is found not to be in a SFHA).</p>		
<p>Special Situations</p> <p>Table funded loans, condominiums, mixed-use properties, and mobile homes create special situations with respect to complying with flood insurance requirements. OTS regulations and Interagency Questions and Answers deal with these special situations in detail.</p>	Continuing	<p>Underwriting Guidelines</p> <p>Loan Documents</p>
<p>Training</p> <p>Offer training sessions for employees on current flood insurance requirements.</p>	As Needed Basis	Training Documents
<p>Update</p> <p>Update and revise Flood Insurance Policies and Procedures to ensure consistency with the Act and OTS regulations.</p>	As Needed Basis	FEMA Purchase Guidelines
<p>Internal Review</p> <p>Conduct an internal review at least annually to assess compliance with the Act and OTS regulations and conformity of the institution's practices with its policies and procedures.</p>	Continuing	<p>Internal Review</p> <p>Procedures/Reports</p>



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Flood Insurance Coverage Limits

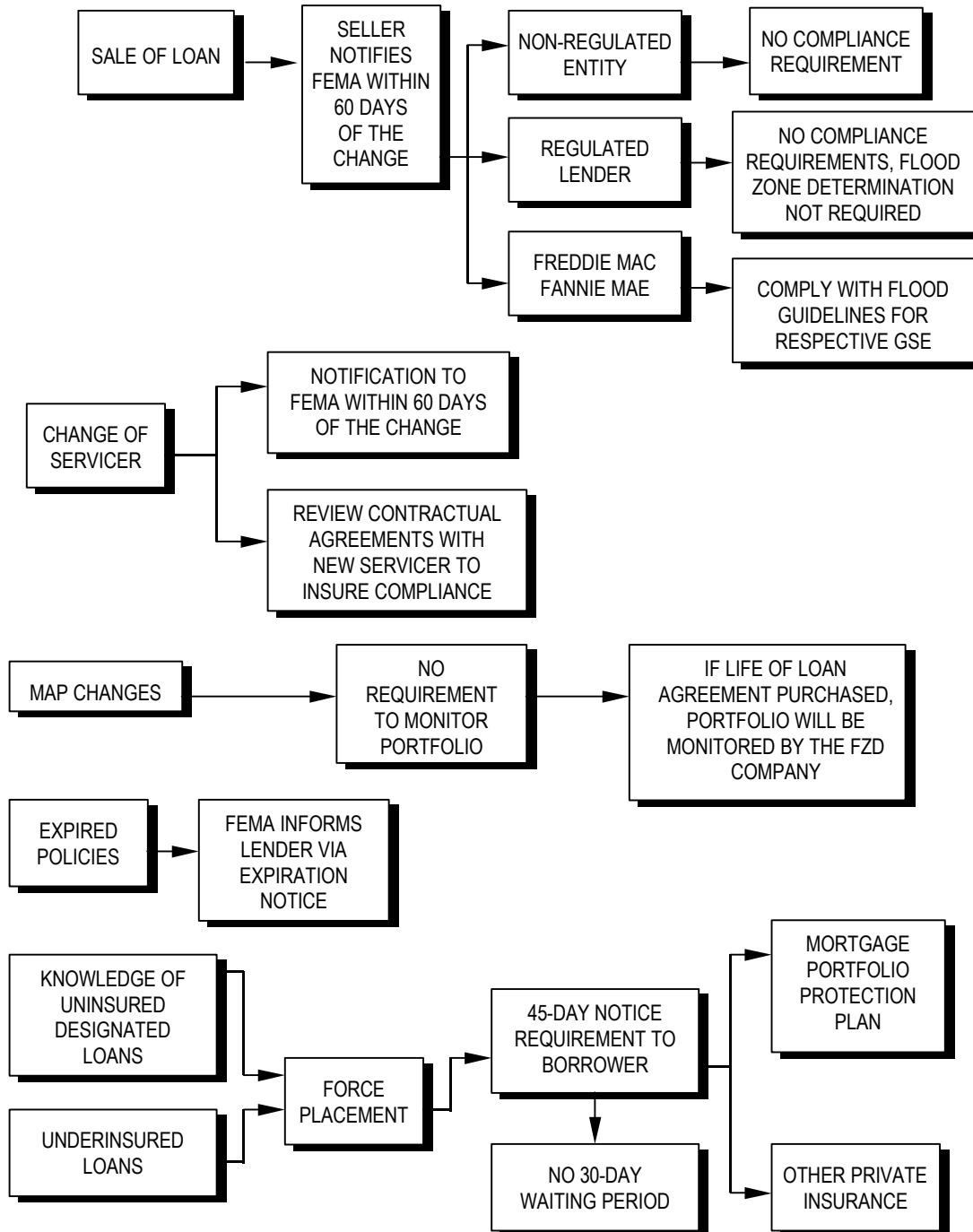
The National Flood Insurance Reform Act of 1994 increased the maximum amounts of flood insurance available under the NFIP. The current amounts are shown below. Most communities participate in the regular program. A few communities are in the emergency program. Refer to FEMA's Flood Hazard Boundary Maps to locate the participating program of a community. Special limits apply in Alaska, Hawaii, Guam and the Virgin Islands.

<u>Building Coverage</u>	<u>Emergency Program</u>	<u>Regular Program</u>
Single-family dwelling	\$ 35,000	\$250,000
2 - 4 family dwelling	\$ 35,000	\$250,000
Other residential	\$100,000	\$250,000
Nonresidential	\$100,000	\$500,000
<u>Contents Coverage</u>		
Residential	\$ 10,000	\$100,000
Nonresidential	\$100,000	\$500,000



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TRIGGER POINTS DURING LIFE OF LOAN





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MANDATORY PURCHASE AT LOAN ORIGINATION

